

AMENDED IN SENATE AUGUST 18, 2003

SENATE BILL

No. 718

Introduced by Senator Dunn

February 21, 2003

An act to amend Section 1538.5 of the Penal Code, relating to criminal procedure relating to sexual abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 718, as amended, Dunn. ~~Criminal procedure~~ Sexual abuse: statute of limitations.

Under existing law, there are various specified limitations of time after which complaints or indictments may not be filed against defendants.

This bill would state the intent of the Legislature to address the statute of limitations in cases involving criminal prosecutions of childhood sexual abuse.

~~Under existing law, a defendant in a criminal case may move for the return of property or to suppress as evidence any tangible or intangible thing obtained as a result of a search or seizure based on specified grounds. Existing law requires this motion to be in writing, and to be accompanied by a memorandum of points and authorities listing the specific items of property or evidence sought to be returned or suppressed and setting forth the factual basis and legal authorities that demonstrate why the motion shall be granted. The California Supreme Court has held that a prima facie showing by a defendant that a search was warrantless requires the prosecution to offer a justification for the search, which then requires the defendant to present arguments as to why that justification is inadequate. The court held that defendants need only be specific enough to give the prosecution and court reasonable~~

notice, as long as defendants are not completely silent about an issue the prosecution may have overlooked.

~~This bill would require a motion to return property or suppress evidence to precisely identify the law enforcement or other governmental conduct that is challenged by the motion.~~

~~Existing law provides that, whenever a search or seizure motion is made as specified, the judge or magistrate shall receive evidence on any issue of fact necessary to determine the motion.~~

~~This bill would limit the evidentiary hearing concerning a motion alleging unlawful search or seizure to the law enforcement or other governmental conduct that has been precisely identified in the defendant's motion.~~

~~This bill would also make technical and conforming changes in the statute specifying procedures for search and seizure motions, and would make its changes apply to all criminal proceedings conducted on or after January 1, 2004.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. It is the intent of the Legislature in enacting this~~
~~SECTION 1. It is the intent of the Legislature to address the~~
~~statute of limitations in cases involving criminal prosecutions of~~
~~childhood sexual abuse.~~

**All matter omitted in this version of the
bill appears in the bill as introduced in the
Senate, February 21, 2003 (JR 11)**

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